



STAFF REPORT

THE FINAL PLAT FOR GROUSE LANDING – A RURAL RESERVE PLANNED UNIT DEVELOPMENT

Prepared March 7 for the March 17th, 2011
Board of County Commissioner Public Hearing

OWNER: Tom & Mary Ulrich **AGENT:** Nelson Engineering

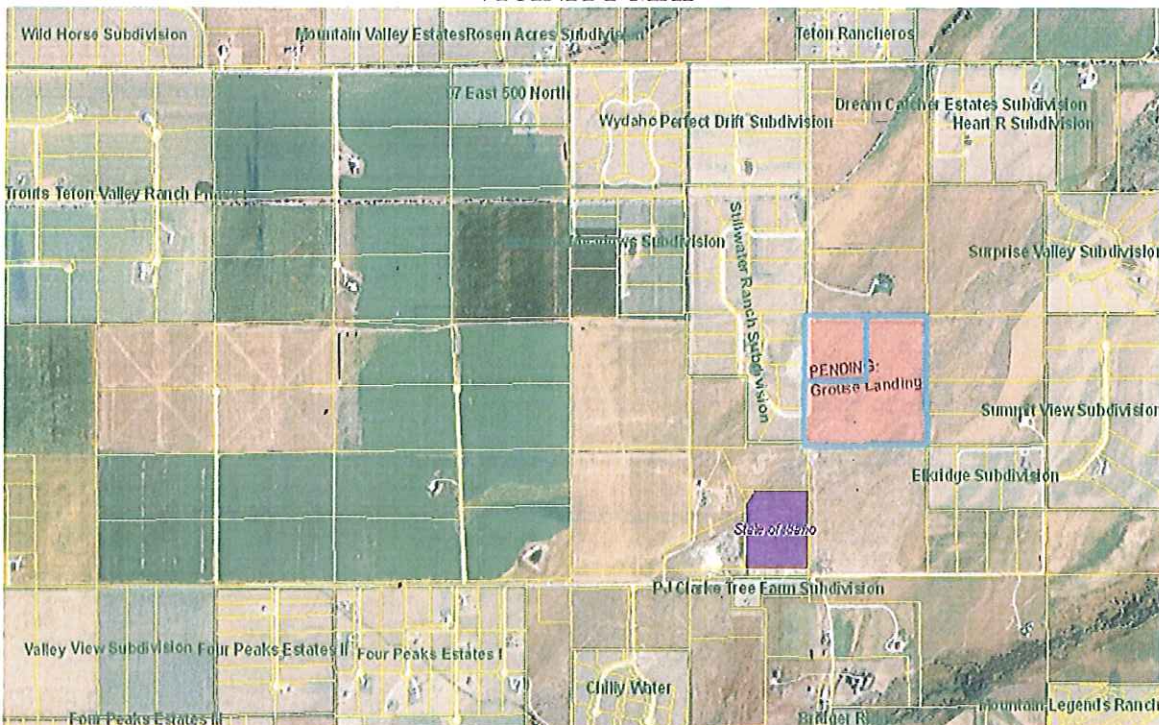
REQUEST: This Final Plat application is to subdivide a forty acre parcel into fifteen residential lots that contain non-taxed open space areas that are governed by an open space management plan.

CODES: Title 9 as amended 09/25/07; Idaho Code Title 67 Chapter 65 This is a Rural Reserve PUD, Section 9-5-2

LEGAL DESCRIPTION: N ½, S ½, Section 6 Twp. 6N 46E of B.M.

LOCATION: Approximately 4500 North and 1500 East.

VICINITY MAP



ZONING DISTRICT: A/RR- 2.5

NUMBER OF LOTS: 15 Residential Lots

OVERLAYS: none

TOTAL ACREAGE: 40± Acres

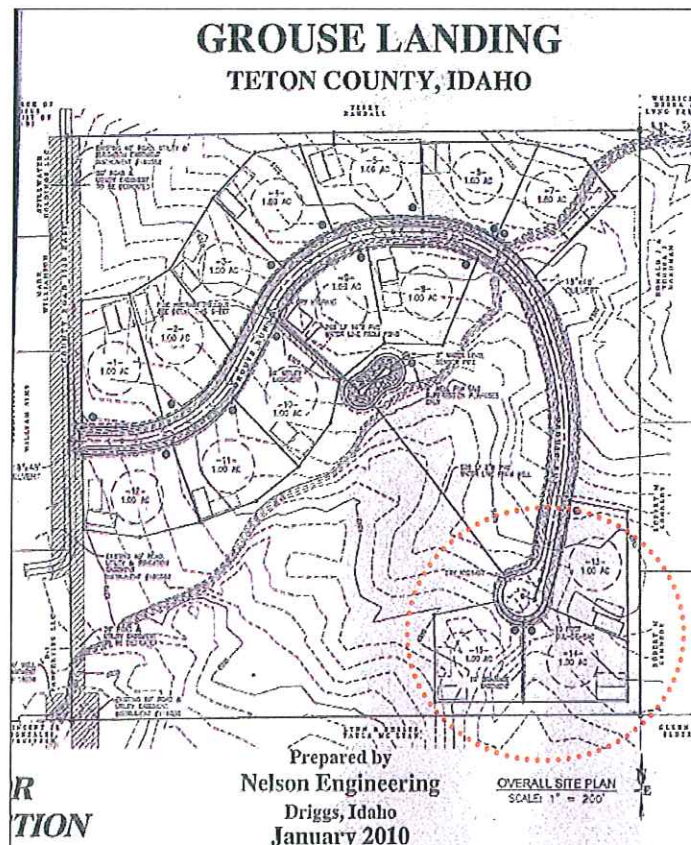
PLANNING STAFF RECOMMENDATIONS

Planning Staff recommends **approval** of the Grouse Landing Final Plat, subject to the conditions of approval listed at the end of this report.

BACKGROUND & HISTORY:

A Concept Plan entitled "Carrington Crossing" was approved by Planning Administrator Patrick Vaile on September 22, 2008. That plan depicted 15 lots with three (3) of the lots separated from the others and located south of their present location.

The Preliminary Plat application was submitted on January 29, 2010 and the Planning & Zoning Commission first heard it on April 13, 2010. After much consideration, the Commission continued the hearing to May 11, 2010. Among the comments delivered at the first hearing was VARD's letter of April 2 that stated, "It would make most sense to eliminate the 3 lots at the far SE end of the open space and also the road traversing the drainage/rolling sage lands", see the original design below. Subsequently, it was discovered by the staff that some surrounding property owners had not been notified of the April 13, 2010 hearing in accordance with the requirements of Idaho Code. Therefore, the preliminary plat application was rescheduled for May 11, 2010 where it was to be presented again "from the beginning".



Note the original PUD configuration as reviewed by PZC on 4/13/2010 had 3 lots in the SE corner

The May 11, 2010 hearing was duly noticed in the Teton Valley News and notifications were made to surrounding property owners in accordance with Idaho Code 67-6509 and 67-6511. After having heard comments presented at the April PZC meeting, the applicant modified the PUD. The new site plan still included lots 13, 14, and 15 that VARD had called for elimination, but the revised plan relocated them from the far SE corner. The Grouse Run road was also shortened more than 400 feet along with its intrusion into the rangeland swale. This new configuration provided for less encroachment into the large block of open space located on the lower topographic swale.

After hearing public comment and deliberating, the Commission recommended approval with eight conditions (on a 3 to 2 vote) to the Board of County Commissioners. The eight conditions were to be addressed and/or rectified with the Final Plat application submission. The only recommended Preliminary Plat condition related to open space was the following:

“Open Space Management Plan be reworded to make it clear that the County is not the enforcer of the Plan.” – That change was made for the Final Plat.

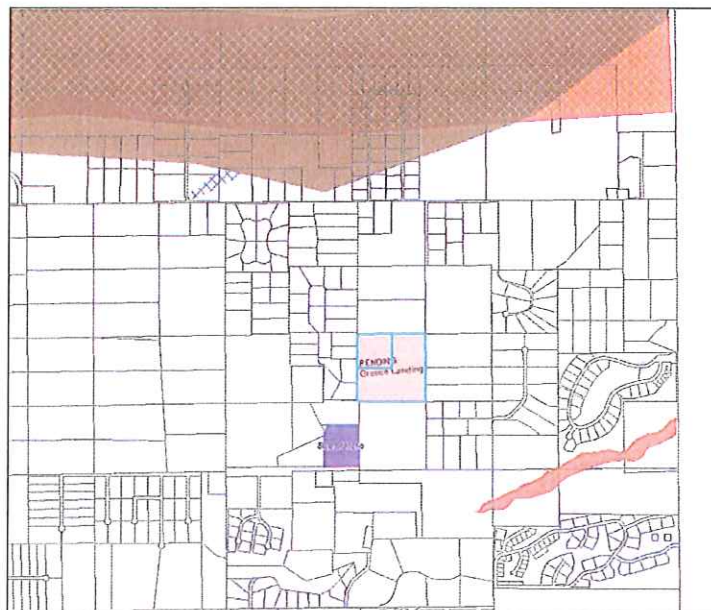
The Final Plat application was submitted May 27, 2010 and a BOCC Public Hearing was noticed and held on July 15, 2010. Numerous items were discussed and the Board decided to remand the PUD application to the Planning & Zoning Commission for consideration. The Board’s motion enumerated three distinct issues and also referred to other miscellaneous items that needed attention or supplements to the application. The remand issues are summarized below. It is assumed that if an issue was not part of the remand discussion then the Board did not necessarily intend for that to be rehashed. The entire minutes to the BOCC Public Hearing are attached.

From the July 15, 2010 Public Hearing Minutes:

At 8:31 pm Commissioner Rinaldi moved to remand the Grouse Landing PUD Final Plat back to the Planning & Zoning Commission to determine how the open space meets the definition in the code and define and explain rationale for a restriction on guest homes. The applicant needs to provide a specific plan for improvements of 1500 E for the section identified from the subdivision entrance traveling south and intersecting with 4000 N; and deal with other housekeeping details discussed in this hearing. Motion seconded by Commissioner Benedict and passed 2 votes to 1. Chairman Young voted in opposition. Motion carries.

ISSUES ON REMAND

Remand Issue #1. Open Space Design: The PZC considered whether the three separate areas of proposed open space were acceptable as depicted on the Grouse Landing PUD. They were asked to consider whether there were adequate community benefits being proposed in the PUD’s open space. Planning Staff’s report to the PZC also advised them to consider the relevant sections of the 2007 County Code, which is the version of the ordinance that applies rather than more recent Code with its amendments regarding open space design.



No Natural Resource or Scenic Overlays are adjacent to Grouse Landing

Background: The Grouse Landing proposed open space has one large, intact area of 18.11 acres, but also contains a 2.27 acre area that is separated with two rows of lots from the larger, undeveloped area. Nevertheless, none of the 40 acre's area is critical winter range or mapped with any type of environmentally sensitive overlay. The layout of the PUD, even with its imperfect open space, is arguably less impact on the natural environment than a standard 2.5 "cookie cutter" subdivision with no dedicated open space, more internal roads and uniform distribution of 13 to 15 building envelopes throughout the 40 acres. A "cookie cutter" plan would necessarily have development in the open space sagebrush swale. The amount of open space required for a PUD is 50% of the total gross parcel acreage. The area shown on the Final Plat is 52.8%, which is in excess of the acreage requirement.

The Planning & Zoning Commissions' Deliberations on the Open Space Issue:

The individual comments from each Commissioner are reprinted below.

Mr. Arnold stated he was present during the Commission's original approval and he had not changed his mind about the open space, feeling it works and is acceptable as designed.

Ms. Stevenson felt the open space clearly met the requirements in the County codes in place at the time the application was submitted.

Mr. Johnson commented he felt the PUD design criteria in this proposed development meets the ordinance requirements and intent. He felt the amount and design of the open space was meaningful and followed the intent for a PUD design.

Mr. Hill read a portion of the current ordinance 9.5.2.E regarding open space parcels. He then asked if that language was present in the 2007 ordinances. Mr. Moore commented that language was not in the 2007 ordinance but, in the 2007 code 9.7.7 regarding contiguous lands, he stated there is different wording but phrases within are similar. He felt there was more leeway in the 2007 code regarding open space. Mr. Hill commented he struggled with the proposed open space plan and felt there are unique natural features on the property and areas that should be preserved in the open space plan, such as the sagebrush swale, that are not. He felt lots 8, 9 & 15 would be ideal for preservation, especially in conjunction with adjacent properties that have yet to be proposed for development. Based on the language in the 2007 code allowing the Commission the discretion for preservation of open space, he felt that open space should be designed for maximum preservation. He commented that based on the language in the 2010 code, the statement he had a hard time getting past was the intent to preserve open space to the maximum intent feasible, and did not feel the proposed design met that criteria.

Mr. Colyer had a problem with the thin strip of land approximately 60' wide designated as open space, feeling it was not large enough to be considered open space. Overall, he felt that the amount of open space provided addresses the intent of the 2007 ordinances as far as protecting views, buffering the development, and being configured in a manner that addresses the 2007 ordinances.

Mr. Hensel commented he was comfortable with supporting the open space as proposed, feeling it provides a meaningful protection of natural vegetation and preservation of views. He felt the County should encourage cluster development, even though it will cause certain areas to have higher density potentially affecting some adjacent property owners. He also pointed out that the density in the proposed PUD design was no higher than if the developer had done a standard 2.5 acre subdivision.

Motion: *Mr. Hensel moved to recommend approval of the Grouse Landing PUD as drawn. On the first part [remand issue 1] the Commission believes that the open space is significant and meaningful and protects a large part of "native" sage brush vegetation, it provides buffering for neighboring subdivisions to the east, south, and partially to the northwest, and protects the view shed and fits in to a meaningful degree of the land contours. Vote: The motion was approved 5-1*

Remand Issue #2 "Guesthouses" A prohibition on guesthouses had its origin with a recommended condition of approval that the PZC attached at the Preliminary Plat stage. Note: A "guesthouse" is more formally called an "accessory dwelling unit" (ADU). The applicant's Final Plat presentation argued that the guesthouse restriction need not apply. During the Final Plat hearing, the Board reconsidered whether the restriction on guesthouses should apply per the PZC Preliminary Plat recommendation. On remand, the BOCC asked the Planning & Zoning Commission to provide the justifications for this restriction and Staff further suggested they tie it to an enumerated County goal, policy, ordinance, or site-specific factor unique to this PUD.

Background: In May 2010, the majority of the Planning Commission considered the potential of doubling the actual number of dwelling units in this PUD; consequently they attached a condition that no guesthouses were allowed here. Given the flexibility of designing a PUD, the Planning Commission felt there was some corresponding latitude for the County to place limitations that are not applied in traditional subdivisions.

The Planning & Zoning Commissions' Deliberations on the Guesthouse Issue:

On December 14th, the PZC discussed the guesthouse issue in detail and several nearby neighbors made public comments. The applicant made a rebuttal of these comments at the end of the public comment period. In the end, the Commission felt that the visual impact concerns of the neighbors could be addressed by limiting the detached ADU's to one story and restricting them to 30-feet and not 15-feet from the property lines. The meeting minutes from December 14, 2010 can be reviewed to better understand the various considerations and the resulting modifications to the accessory dwelling unit restriction.

Motion: *On the second issue regarding accessory dwelling units, the Commission recommends that they be restricted in height to a single story when detached, and remove the former recommendation of allowing a setback variance and require standard setbacks. Mr. Arnold seconded the motion.*

Vote: *The motion was approved 5-1.*

Remand Issue #3 Offsite Road Extension to 4000 North: The project proposes to take official access from the south, not from the existing "Tags Trail" road that intersects 5000 North. Tags Trail is a private road that is located along the 1500 East alignment. Since the private road has multiple easement holders, the applicant chose to use a road easement that goes from the subject property south (over 1300 lineal feet) to 4000 North. The building of this new driveway-road section (to County engineering standards) would use an existing right-of-way and it would extend south and tie into County Road 4000 North. By all appearances, this access road to Grouse Landing effectively makes Tags Trail -1500 East a through-connector street from 4000 to 5000 North. During all phases of this project, some of the neighbors have voiced opposition to this new "through-road".

During its initial hearing of the Final Plat, the Board raised several questions pertaining to the south road connection. Since the July BOCC meeting, Nelson Engineering has provided additional engineering plans for the subdivision roads, including the extension road to 4000 North. In order to

directly answer the Boards' questions, responses from the Planning Staff and County Engineer have been provided below:

1. The Board wanted to have the road construction-engineering plans drawn up and submitted before Final Plat approval.

Said engineering drawings were submitted to the County Engineer and Lou Simonet's memo of March 7- 2-011 summarizes his review of the road construction plans.

2. Provide the associated cost estimates for all construction, to be used for surety-bonding.

An engineer's cost estimate was received November 19 and now includes an additional line item for re-vegetating disturbed areas outside of the open space. The cost estimate was approved by the County Engineer.

3. What are the ramifications of having the newly constructed connector to 4000 North dedicated to the HOA and Teton County?

The dedication of the right-of-way for County ingress does not make the County liable for problems there, nor does it require the County to repair, plow, or maintain the roadway. At some far-future point in time, this road could become a County Road and it could function as a connector to disperse traffic and provide alternate routing.

4. Whose responsibility and liability is it to maintain, to repair, and to plow snow on that road section?

The County Engineer told staff that the County will not plow or maintain this new roadway, at least until such time as the County deems it necessary to accept this road into the maintained county road network. The County Engineer's letter of March 7 did ask about any shared plowing agreement that might be created with nearby neighbors.

5. The Commissioners also discussed having a road maintenance agreement for the northern section of 1500 E (Tags Trail) up to 5000 North.

The County Engineer is not requiring that Grouse Landing enter into the north-road connector (Tags Trail) agreements because the subdivision takes independent official access from the south. Staff has been contacted by one neighbor who was the original builder of Tags Trail; they requested that Grouse Landing contribute to a shared road maintenance agreement. If Grouse Landing were to be granted access rights to that private road from ALL of the easement holders, then it would be expected to contribute a pro-rata share towards maintenance. To date, Staff has not heard from the applicant about securing access to the north along Tag's Trail.



Development Agreement, and Open Space Management Plans:

- 1) Sections 7 and 11 of the Development Agreement are consistent in stating that the commencement of construction of improvements will be within the first year after recording and will be completed within two years after construction commenced.
- 2) The Open Space Management Plan has been revised as requested during the Preliminary Plat phase.
- 3) The outdoor lighting reference is appropriately located in the CC&Rs.

REVIEW OF THE APPLICABLE TETON COUNTY ORDINANCES

REGULATION	COMPLIANCE	COMMENTS
Title 9 § 9-3-2 C. Required Material		
Application	✓	Final Plat Application was received on May 27, 2010.
Complete Checklist	✓	Checklist item are complete.
Fees	✓	Final Plat fee of \$512.75 has been paid.
Landscape Plan	✓	Although not required a landscape plan was submitted.
Fire District Preliminary Plat Approval	✓	See fire marshal letter dated June 9, 2010.
Water Rights Availability	✓	Subsurface water rights are available.
Proposed Building Envelopes	✓	Building envelopes have been established.
Public Improvement Plans	✓	Submitted and forwarded to the County Engineer.
Specific Studies	✓	Traffic Impact Study provided by Nelson Engineering.
Public Agency comment letters	✓	EIPHD 6-17-2010, 4-28-2009 and 3-18-2010; Fire District 6-9-2010; Fish & Wildlife Service 2-16-2010; Bureau of Reclamation 2-16-2010; Army Corps of Engineers 12-16-2009; Idaho Fish & Game 2-18-2010.

Title 9 § 9-3-2 C. Consideration for Approval		
The conformance of the subdivision/PUD with the comprehensive plan	✓	See application submittal provided by the applicant; the PZC determined conformance with the comprehensive plan.
Trails and pathways plan	NA	Plan does not include this area.
Consistent with NP Study	N/A	Conditions do not exist on the parcel to require a study.
Adequacy of sewage system	TBD	EIPHD determination for individual lots.
Traffic Impact Study	✓	Mr. Simonet reviewed; no improvements are warranted.
Road construction for connectivity	✓	Mr. Simonet reviewed; no request for connectivity.
Natural Resource Analysis	✓	This proposal is not within an overlay.
Public Services Fiscal Analysis	✓	See application submittal.
Consistent with capital improvements plan	TBD	See application submittal.
Adequate institutional structure for longer term maintenance	TBD	See Open Space Management Plan.

Checklist requirements; Title 9 Chapter 4		
Plat identification/technical items	See staff comments.	Final plat documents are still being reviewed by the county engineer.
Utility facilities identification	Comments forthcoming.	Under review by the county engineer.
Protective Covenants	✓	Permanent county required restrictions have been included in Article X, Section 5.
Development Agreement	Comment attached.	Reviewed by county attorney, Kathy Spitzer.

PUBLIC AND ADJOINING LANDOWNER FINAL PLAT NOTIFICATIONS

Staff received written public comments from neighbors when the Final Plat was remanded back to the Planning & Zoning Commission in December, 2010. Since the Public Hearing, no further comments have been received, although the application has been advertised in the newspaper, posted onsite, and a Final Plat notification letter was sent to all landowners required by law.



Landed Grouse at Grouse Landing

PLANNING STAFF RECOMMENDATIONS

Planning Staff recommends **approval** of the Grouse Landing Final Plat, subject to the following conditions of approval:

- 1) In accordance with Section 9-4-2-C-1 and 2, the applicant shall provide a letter of credit to the County covering construction, operation and maintenance of all the specified public improvements listed in the Nelson Engineering Cost Estimate of November 19, 2011. The amount for the Letter of Credit, which is 125% of the total, is \$146,266.88.
- 2) The County Engineer memo of March 7, 2011 specifies a few revisions to be made to the Final Plat. Said revisions shall be made and reviewed by the County Engineer prior to the recordation of the mylar Final Plat. Said revisions include 1) changes to the road dedication, 2) details on the mail box location and design, 3) verification of drainage and possible culverts in the open space, 4) the road snow plowing arrangements, if any with nearby landowners, and 5) details on the subdivision sign design.
- 3) The Final Plat is subject to technical review of the County's contract plat reviewer- Williams Engineering, Incorporated. All revisions identified by WEI shall be made prior to the recordation of the Final Plat. WEI or the Planning Staff may determine whether any required revisions are acceptable. The Final Plat shall not be released for recording until the WEI invoice for plat review is paid.

Attachments:

- Final Plat Application
- Final Plat-11" x 17"- 2 pages
 - Grouse Landing Memo of Issues, received 3/7/2011
 - Protective Covenants, Conditions and Restrictions- Final (revised after PZC)
 - Development Agreement - Final
 - Road Improvement Plan
- Minutes of April 15th and May 11th 2010 PZC hearings
- Minutes of BOCC hearing July 15, 2010
- Minutes of Planning & Zoning Commission December 14, 2010
- Nelson Engineering's Cost Estimate, November 19, 2010
- Teton County Fire Protection District 6/9/2010
- Teton County Road and Bridge 4/29/2010
- County Engineer letter Update of July 6, 2010
- County Engineer update-memo of March 7, 2011
- Stillwater Ranch HOA letter 1-14-2010
- Bureau of Reclamation email 2-16-2010
- IDFG email 2-18-2010
- U.S. Fish & Wildlife Service letter 2-16-2010

Attachments continued

- Teton County Fire Protection District 4-21-2009
- U.S. Fish & Wildlife Service letter 4-27-2009
- EIPHD letter 4-28-2009
- EIPHD letter 3-18-2010
- US Army Corp of Engineers letter 12-16-2009
- VARD letter 4-2-2010
- Bill & Kathy Simms comment letter 4-29-2010
- Felix & Joyce Zajac comment letter 5-23-2010
- Kathy Simms comment letter 4-27-2010
- William Horn comment letter 4-23-2010
- Felix & Joyce Zajac comment letter 5-25-2010
- Diane Temple email 4-14-2010
- Staff Report 7-15-2010
- Mark Morrison comment letter 4-29-2010
- Kathy Spitzer comments 4-30-2010
- EIPHD letter 6-17-2010
- Diane Temple-TC Road & Bridge memo 6-9-2010